

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. **Examiner Interview dated May 10, 2006**

Applicant thanks the Examiner for the Interview conducted with Applicant and its Legal Representative Agent on May 10, 2006. Applicant also thanks the Examiner for indicating in the Interview Summary that: "Applicant attorney agreed to amend the independent claims to include portability and hardening concrete washout material to overcome the prior art rejection." The Interview Summary thus indicated that an agreement was reached as to the fact that Examiner's proposed claim amendments, agreed to be filed by Applicant in its next submission, would overcome the most recent prior rejection. Examiner further indicated in the interview that a further search would be conducted based upon the agreed amendment prior to granting an indication of final allowance following this agreed amendment.

2. **Withdrawn Rejections in paper No. 20050916**

Applicants also thank Examiner for indicating in the 11/30/2005 Office Action that the prior rejection under 35 U.S.C. 112, and the rejection under 35 U.S.C. 102(b) were withdrawn in response to Applicant's successful amendments and remarks previously filed 09/20/05.

3. **Withdrawn Indication of Allowable Subject Matter in paper No. 20050916**

Applicants recognize that the 11/30/2005 also withdrew the prior indication of allowable subject matter in paper No. 20050916, followed by the indication of new grounds for rejection against the subject claims. Applicant responds to the new grounds for rejection per the Examiner Interview, and the Amendment and accompanying Remarks herein provided.

4. Obviousness-type Non-Statutory Double Patenting Rejection: Claims 7-42

The 11/30/2005 Office Action included a provisional, non-statutory double patenting rejection of the presently pending claims versus claims 49-63 of copending Application No. 11/080,378. However, the '378 Application is a later filed continuation of the present Application, thus the present Application is the earlier filed parent of the application now held against this present Application. Upon indication of a Notice of Allowance in the present application for patent issuance prior to the later filed continuation presently being applied against this senior Application, Applicant thus requests that this provisional rejection be reconsidered and withdrawn as being inappropriate application of double patenting doctrine at that time.

5. Rejection of Claim 7 under 35 USC 102 in view of Salomone (5,387,736)

Applicant notes that the Interview Summary indicated that certain agreed amendments would overcome this ground for rejection that thus should be subsequently withdrawn upon filing such amendment. Applicant has presented such Amendment hereunder.

In particular, each independent claim has been amended to include "portable, constructed" limitation to the "container" originally claimed, in addition to the inclusion of a "volume of concrete washout material" in a substantially "hardening condition" located within such portable, constructed container. These additional added elements are considered to comply with the agreed amendments to be made, and to overcome the prior rejection, per the Examiner Interview. This combination of features, especially in further combination with the other limitations of the claims, is neither anticipated nor suggested by the references previously cited against this Application. Nor does any combination of references previously cited in the prior Office Action(s) arrive at the same or similar result as is now required in the claims, and nor do these previously cited references in the prior Office Action(s) motivate one of ordinary skill to combine their limited disclosures in a manner that arrives at the presently claimed combinations

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of features per this amendment agreed upon with the Examiner.

Accordingly, reconsideration and withdrawal of this ground for rejection is respectfully requested.

6. Rejection of Claims 8-42 under 35 USC 103(a): Salomone et al. in combination with Petrick et al. (5,685,978), Henderson (20020098071) or Gross (20030205257) and Klempner (20040074903).

Applicant notes that the Interview Summary indicated that certain agreed amendments would overcome this ground for rejection that thus should be subsequently withdrawn upon filing such amendment. Applicant has presented such Amendment hereunder.

In particular, each independent claim has been amended to include "portable, constructed" limitation to the "container" originally claimed, in addition to the inclusion of a "volume of concrete washout material" in a substantially "hardening condition" located within such portable, constructed container. These additional added elements are considered to comply with the agreed amendments to be made, and to overcome the prior rejection, per the Examiner Interview. This combination of features, especially in further combination with the other limitations of the claims, is neither anticipated nor suggested by the references previously cited against this Application. Nor does any combination of references previously cited in the prior Office Action(s)) arrive at the same or similar result as is now required in the claims, and nor do these previously cited references in the prior Office Action(s) motivate one of ordinary skill to combine their limited disclosures in a manner that arrives at the presently claimed combinations of features per this amendment agreed upon with the Examiner.

Accordingly, reconsideration and withdrawal of this ground for rejection is respectfully requested.

7. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made above, and any accompanying remarks made herein or in interview with the Examiner, Applicant does not acquiesce in the original ground for rejection with respect to the original form of these claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. Applicant reserves the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

Unless a particular amendment herein presented is specifically indicated as being made for the purpose of overcoming alleged merits of prior art as may be read against the form of such claim prior to such amendment, then such amendment is not to be considered to be presented for such purpose of establishing patentability in view of prior art. For example, various amendments have been made throughout the claims in order to establish proper antecedent basis and clarity as to the inclusion of the "volume of concrete washout material" within the portable, constructed container of the claims. Other amendments clarify the relationship and intercooperation between other elements with respect to their characteristics as described in relation to such volume of concrete washout material in hardening and substantially hardened conditions within the portable, constructed container.

8. Conclusion.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection and any objection of the claims and to pass this application to issue.

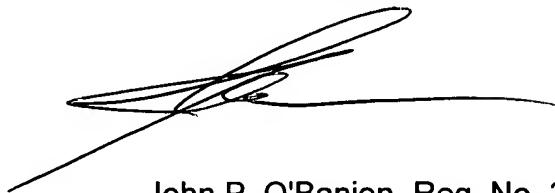
The Applicant also respectfully requests a telephone interview with the Examiner in the event that there are questions regarding this response, or if the next action on the

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merits is not an allowance of all pending claims.

Date: 5/26/06

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John P. O'Banion', with a long horizontal flourish extending to the right.

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